

Before the
Federal Communications Commission
Washington, D.C 20554

In the Matter of)
)
)
A La Carte and Themed Tier Programming and)
Pricing Options for Programming Distribution) MB Docket No. 04-207
On Cable Television and)
Direct Broadcast Satellite Systems)
)
)

**REPLY COMMENTS
OF THE
NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION**

The National Telecommunications Cooperative Association (NTCA)¹ submits these reply comments in response to the FCC's (Commission's) May 25, 2004 Public Notice seeking comment on factual questions regarding the provision of *a la carte* and "themed tier" services on cable television and direct broadcast satellite systems.²

A large number of NTCA's member companies offer video service to rural America. Currently, 216 NTCA member companies provide cable television service, and 79 member companies offer direct broadcast satellite (DBS). Other members are beginning to explore the offering of video programming over DSL or fiber facilities

¹ NTCA is the premier industry association representing rural telecommunications providers. Established in 1954 by eight rural telephone companies, today NTCA represents more than 560 rural rate-of-return regulated telecommunications providers. All of NTCA's members are full service incumbent local exchange carriers (ILECs) and many of its members provide wireless, cable, Internet, satellite and long distance services to their communities. Each member is a "rural telephone company" as defined in the Communications Act of 1934, as amended (Act). NTCA's members are dedicated to providing competitive modern telecommunications services and ensuring the economic future of their rural communities.

² Comment Requested on *A La Carte* and Themed Tier Programming and Pricing Options for Programming Distribution on Cable Television and Direct Broadcast Satellite Systems, MB Docket No. 04-207, DA 04-1454, (rel. May 25, 2004).

utilized in conjunction with the provision of traditional telecommunications services. These nascent ventures, in particular, do not meet the typical cable television (CATV) provider mold and need flexible access to programming to accommodate different technological parameters and serve the changing needs of their customers. NTCA member companies serve the most rural segments of this country, where the cost and difficulty of providing service is the greatest. In many areas, NTCA member companies are the only providers currently serving these customers.

I. A LA CARTE PROGRAMMING WILL ALLOW SMALL CARRIERS THE ABILITY TO OBTAIN THE PROGRAMMING THEIR CUSTOMERS WANT AT A REASONABLE PRICE.

As noted in NTCA's initial comments,³ small CATV providers and local exchange carriers (LECs) possess far less leverage in dealing with content providers than do the larger multiple system operators (MSOs). By virtue of their ability to deliver many more customers than small rural providers, the large MSOs are able to negotiate far more favorable terms for programming. Their customers, in turn, benefit from the leverage and long-term relationships that the larger or more traditional CATV providers possess. Smaller carriers, on the other hand, lack the leverage afforded by a large customer base and established arrangements for the distribution of video programming. As a result, content providers are able to take a relatively inflexible position in their negotiations with small carriers and innovators. Other practices—such as tying arrangements and exclusionary practices--put rural carriers (and their customers) at a further disadvantage.

It is important that all types of carriers in rural areas are able to obtain programming content at reasonable rates in order to be able to provide the same service

³ See, NTCA Comments, July 15, 2004.

to rural customers that is available in urban markets or in those served by large MSOs. Allowing rural providers the ability to purchase channels on a stand-alone basis and to offer *a la carte* programming would be an important step toward serving the unique needs of rural customers and reducing the negative impact of the small companies' lack of leverage. Smaller carriers would be able to focus their limited programming budgets and channel capacity toward those networks that most interest their customer base.

II. ACCORDING TO 2000 CENSUS DATA, THE VAST MAJORITY OF THE NATION'S POPULATION RESIDES IN A SMALL PORTION OF THE OVERALL LAND MASS.

Consideration of a different *a la carte* policy for rural areas is warranted by the unique circumstances of the rural population. Analysis of county data sorted by population density per square mile from the 2000 Census,⁴ conducted by the U.S Census Department, shows that the overwhelming majority of the U.S. population lives in a very small percentage of the overall land mass. The following table compares cumulative percentages of the U.S. population with cumulative percentages of the overall land mass comprised by the counties in which that portion of the population resides.

Cumulative % of Total Population	Cumulative % of Total Land Mass
50%	3.3%
60%	5.6%
70%	9.0%
80%	15.3%
90%	27.2%
100%	100.0%

SOURCE: Compiled from U.S. Census Department, United States Census 2000

⁴ U.S. Census Department, United States Census 2000, available online at <http://www.census.gov/main/www/cen2000.html>.

As the table shows, 80% of the nation's population inhabits counties comprising only 15% of the total land mass. Conversely, the remaining 20% of the population is spread out in counties which make up over 85% of the nation's land mass.

Due to economies of scale, the per-customer cost of providing cable and DBS service is lower in more densely populated areas. For rural carriers, the higher costs of programming are exacerbated by the difficulties they face in negotiating agreements with content providers, which result in higher operating costs for rural service providers and fewer choices for their customers. The bottom line has been that rural residents typically pay higher prices and have fewer options than their non-rural counterparts.

III. ALLOWING THE PROVISION OF A *LA CARTE* PROGRAMMING IN THOSE AREAS BELOW A CERTAIN POPULATION DENSITY THRESHOLD WOULD HELP OVERCOME THE LACK OF NEGOTIATING LEVERAGE CARRIERS SERVING THOSE AREAS MUST FACE.

By changing rules and policies to allow cable carriers and ILECs in those areas below a certain population density threshold the ability to obtain access to stand-alone programming and offer *a la carte* programming, the Commission would take an important step toward helping those carriers meet the unique needs of rural areas with innovative offerings and overcome their lack of negotiating leverage as highlighted in NTCA's initial comments in this matter. Residents of these areas would be made better off, as they would be able to subscribe to the channels they wish to receive at reasonable prices.

Requiring access to stand-alone channels in rural areas would not impact the economics of serving the more populous areas of the country. Due to the large number of subscribers these providers serve, they are able to obtain access to the networks their

customers desire at reasonable rates. Nothing in this proposal would change that—the only difference is that rural customers would be afforded the same advantage.

Implementing such a system would be fairly straightforward, as population density data is readily available. Once an appropriate population density threshold has been established, carriers serving customers who live within those counties with population densities that fall below that threshold will be allowed to obtain stand-alone channels and offer their customers *a la carte* programming service. For example, if the threshold was established at a population density of 50 residents per square mile, customers in all of the counties with a population density of less than 50 would be eligible to elect *a la carte* programming. This would impact approximately 1,700 counties with just 10% of the nation's total population. Furthermore, such a policy can be adopted for rural areas regardless of policy set for the rest of the nation.

Such a system would represent a giant step toward leveling the playing field for the rural companies who, under the current system, must overcome substantial obstacles in negotiating for programming content that the non-rural companies do not. It would allow them to offer rural consumers a better value while conserving precious dollars to support network infrastructure. At the same time, rural consumers will have greater freedom of choice, access to the programming that they want, and will no longer be at the mercy of inflexible content providers.

IV. CONCLUSION

For the above-noted reasons, the FCC should change its policies and rules to make it possible for small providers and innovators to purchase stand-alone channels from programmers and offer *a la carte* services on cable television, direct broadcast

satellite systems and video over DSL or fiber in those areas of the country below a certain population density threshold. In this way, innovators in rural areas will have the ability to tailor offerings to meet the unique needs of their customers. Residents of the lesser-populated areas would be able to have access to the channels they wish to view at reasonable prices, and residents of the more heavily populated areas would not be adversely affected.

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CERTIFICATE OF SERVICE

I, Gail Malloy, certify that a copy of the foregoing Reply Comments of the National Telecommunications Cooperative Association in MB Docket No. 04-207, DA 04-1454 was served on this 13th day of August 2004 by first-class, U.S. Mail, postage prepaid, to the following persons listed below:

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